RAILROAD COMMISSION OF TEXAS
GAS SERVICES DIVISION

GAS UTILITIES INFORMATION BULLETIN

No. 705

RAILROAD COMMISSION OF TEXAS

Michael L. Williams, Chairman
Charles R. Matthews, Commissioner
Tony Garza, Commissioner

Steve Pitner
Director
Gas Services Division

August 9, 2002

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DATE FILED -- 06/26/2002
FILED BY -- Commission's Own Motion
EXAMINER -- Barbara Epstein

DOCKET NO. -- 9315
CAPTION -- Inquiry into the failure of Tower Management & Gas Light Square Mobile Home Park to comply with safety standards.
DATE FILED -- 07/30/2002
FILED BY -- Commission's Own Motion
EXAMINER -- Barbara Epstein

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DATE FILED -- 08/06/2002
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SECTION 2
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None at this time.

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None at this time.

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None at this time.

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None at this time.

SECTION 6
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STEVE PITNER, GAS SERVICES DIVISION DIRECTOR

1. OFFICE OF THE DIRECTOR

A. Publications

1. Texas Utilities Code Titles 3 and 4. Special Rules of Practice and Procedure and Substantive Rules - $15.00

2. a. Annual Report for Fiscal Year 2001 – Now available via the Commission's website at:

   http://www.rrc.state.tx.us/divisions/gs/tablecontents01.html

   a. Annual Report for Fiscal Year 2000 - $17.00 (includes statistical data for 1999)

   b. Annual Report for Fiscal Year 1999 - $9.00 (includes statistical data for 1998)

   c. Annual Report for Fiscal Year 1998 - $7.00 (includes statistical data for 1997)

3. **2002 Pipeline Safety Rules - $13.00, includes: 49 CFR 191 & 192 and 16 TAC Sections 7.70-7.74 (gas) 49 CFR 193 (LNG); 49 CFR 195 and 16 TAC Sections 7.80-7.87 (hazardous liquids); 49 CFR 40 and 199 (drug testing).**

4. Distribution and/or Gas Transmission Review forms for Adequacy of Operation, Maintenance and Emergency Manual - To obtain a copy of review forms at no charge, send a request with a self addressed envelope (10" x 13"preferably) with $0.98 postage.

5. Six MCF Monthly Residential Gas Bill Analysis for Twenty-five Texas Cities - $2.00 – Now available via the Commission's website at: http://www.rrc.state.tx.us/divisions/gs/rap/sixmcf.html

Anyone who wishes to obtain a copy of any of the publications or maps listed in Section A should contact the Gas Services Division, P. O. Box 12967, Austin, Texas 78711-2967, (512) 463-7167.

B. Interest Rate on Customer Deposits

We have been advised by the Public Utility Commission that the interest rate to be applied to customer deposits in calendar year 2002 is 6.00%. All gas utilities should use this rate.

2. PIPELINE SAFETY SECTION

A. Austin Headquarters - William B. Travis Building
1701 North Congress, (78701)
PO Box 12967
Austin, Texas 78711-2967 Telephone (512) 463-7058

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Danny Nichols, Area Supervisor
Jerry Hoff, Engineering Specialist
Jim Arnold, Engineering Specialist
Randy Vaughn, Engineering Specialist
Gregory Johnson, Engineering Specialist
Frank Henderson, Engineering Specialist
John Jewett, Engineering Assistant

Dallas Region 6 -1546 Rowlett Rd., Suite 107, Garland, Texas 75043 Telephone (972) 240-5757

Jody Kerl, P.E., Area Supervisor (Dallas/Kilgore)
M. Kathryn Williams-Guzman, Engineering Specialist
San Sein, Engineering Specialist
Terry Sullivan, Engineering Assistant

Corpus Christi Region 7 -10320 IH-37, P.O. Box 10307, Corpus Christi, Texas 78460-0307 Telephone (361) 242-3117

Don Gault, Area Supervisor
Steven Rios, Engineering Specialist
Jesse Cantu, Jr., Engineering Specialist
Ronda Lauderman, Engineering Assistant

B. Monthly Summary (June)

No. of distribution safety evaluations – 70
No. of transmission safety evaluations - 30
No. of liquid safety evaluations - 8
No. of leak/calls - 52
No. of accident investigations - 2
No. of special investigations - 23

C. Reporting of Pipeline Accidents

1) NATURAL GAS

Accidents on intrastate gas systems involving $5,000 property damage, a fatality or injuries, gas ignition, or that are judged significant must be reported by telephone within two hours, and the written report filed within thirty (30) days. Call the 24-hour emergency phone number (512)463-6788 to report an accident. For your convenience this priority phone line is used only to report emergencies.

2) HAZARDOUS LIQUIDS

Accidents on intrastate hazardous liquid pipelines reportable under 49 CFR Sections 195.50 and 195.52 and 16 TAC Section 7.84(a) must be reported by telephone within two hours and the required written report filed within thirty (30) days. Call the 24-hour emergency phone number (512)463-6788 to report an accident. For your convenience this priority phone line is used only to report emergencies.

Rules and Regulations:

[Federal Register: July 26, 2002 (Volume 67, Number 144)]
[Proposed Rules]
[Page 48844-48851]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr26jy02-30]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. RSPA-01-9832]
RIN 2137-AD59

Pipeline Safety: Hazardous Liquid Pipeline Operator Annual Report Form

AGENCY: Office of Pipeline Safety (OPS), Research and Special Programs Administration, Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking (NPRM) would require hazardous liquid pipeline operators to submit an annual report (proposed form RSPA F7000-1.1). The report form asks for information that the Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) does not currently collect, such as: breakout tank location and capacity; hazardous liquid pipeline mileage by State, diameter and decade installed. The report will be due March 15 of each year for the previous calendar year, aligning with the annual reporting schedule for natural gas pipeline operators. RSPA/OPS will use information from the report to more effectively compile national
statistics on system inventory; analyze accidents; identify safety problems and potential solutions; and target inspections. The proposed form asks for information similar to information RSPA/OPS currently collects for natural gas pipelines. The proposed information collection
is part of RSPA's/OPS's overall strategy for improving the quality of pipeline statistics and addresses a longstanding data gap in hazardous liquid pipeline inventory information.

DATES: Comments on this NPRM must be received on or before September 24, 2002.

ADDRESSES: You may submit written comments by mail or in person by delivering an original and two copies to the Dockets Facility, U.S.
Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. Or, you may submit written comments to the docket electronically at the following Web address: http://dms.dot.gov. See the SUPPLEMENTARY INFORMATION section for additional filing information.

FOR FURTHER INFORMATION CONTACT: Roger Little by phone at (202)366-4569, by e-mail at roger.little@rspa.dot.gov, or by mail at the Office of Pipeline Safety, Room 7128, 400 7th St. SW., Washington, DC, 20590, regarding the subject matter of this notice or to access comments in the docket.

SUPPLEMENTARY INFORMATION:

Filing Information, Electronic Access, and General Program Information

The Dockets facility is open from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays. All comments should identify the docket number of this notice, RSPA-01-9832. You should submit the original and one copy. If you wish to receive confirmation of receipt of your comments, you must include a stamped, self-addressed postcard. To file written comments electronically, after logging onto http://dms.dot.gov, click on ``Electronic Submission'' and follow the instructions. You can read comments and other material in the docket at this Web address: http://dms.dot.gov. General information about our pipeline safety program is available at http://ops.dot.gov.

Background

RSPA Pipeline Safety Mission

RSPA's/OPS's mission is to ensure the safe, reliable, and environmentally sound operation of the nation's approximately 154 thousand miles of hazardous liquid pipelines. RSPA/OPS shares responsibility for inspecting and overseeing the nation's pipelines with State pipeline safety offices. Both Federal and State regulators depend on accident reports submitted by pipeline companies to manage inspection programs and to identify trends in hazardous liquid pipeline safety. In recent years, the U.S. Congress, the National Transportation
Safety Board (NTSB) and the DOT's Office of the Inspector General (OIG) have urged RSPA/OPS to improve the quality of accident data required to be submitted by hazardous liquid pipeline operators and to seek inventory information sufficient for trending the accident data. RSPA/OPS revised hazardous liquid accident reporting requirements on January 8, 2002 (67 FR 831) as part of the strategy to improve pipeline

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accident reporting. The proposed annual report form will provide information that will allow us to characterize the hazardous liquid pipeline infrastructure by decade installed, diameter, material, percentage able to accommodate internal testing devices, percentage tested by hydrotesting or other internal inspection technology, and other criteria needed by Federal and State pipeline safety offices and other interested parties.

Pipeline Safety Data

RSPA/OPS maintains a hazardous liquid pipeline accident database that it uses to identify safety issues and to target risk-based inspections of hazardous liquid pipeline facilities. RSPA/OPS collects hazardous liquid pipeline accident information on RSPA Form F7000-1
Accident Report--Hazardous Liquid Pipelines. This form has been in use since 1970, and has been revised twice; once in 1984 and again on January 8, 2002. The Accident Report form does not, however, collect inventory information necessary for trending the accident information
or for determining the extent and type of hazardous liquid pipelines in operation in the United States.

NTSB Recommendation

In its special investigation report PB96-917002 (January 23, 1996), the National Transportation Safety Board (NTSB) issued recommendation P-96-1 which directed RSPA/OPS to develop a comprehensive plan for the collection and use of gas and hazardous liquid pipeline accident data that details the type and extent of data to be collected, to provide RSPA/OPS with the capability to perform methodologically sound accident trend analysis and evaluations of pipeline operator performance using normalized accident data.

The process of making elements of data comparable for comparison purposes (as, for example, in finding a common denominator) is known as ``normalizing'' the data.

Congressional Recommendations

Recent pipeline accidents focused attention of the regulators, Congress, the media, and the public on the need for better pipeline safety information. Congress advised RSPA/OPS to take quick action to improve the quantity, quality, and usefulness of safety information to
better perform its safety mission.

Industry Recognition of the Need for Better Information

Joint Industry/State/Federal Data Team

RSPA/OPS has worked jointly with an industry/State/Federal team since 1997 to examine the need for improved hazardous liquid pipeline
accident data. The team determined that the best way to address accident reporting deficiencies was to adopt the accident causes proposed by the American Society of Mechanical Engineers (ASME) B31.4 committee and to collect the inventory information needed to normalize the data. The team determined that the American Petroleum Institute (API) could develop and collect additional hazardous liquid pipeline data using a voluntary reporting system. API developed the data collection scheme in a system known as the Pipeline Performance Tracking Initiative (PPTI) and has been collecting information since January 1, 1999. The PPTI information collection is voluntary, and may
not be sufficiently detailed for State and Federal government safety and environmental regulation purposes. Moreover, companies provide the
data anonymously. RSPA/OPS and State pipeline safety offices cannot evaluate an individual company's performance unless the company identifies itself and its pipe inventory.

Standardization of Accident Data Across Industry

RSPA/OPS is implementing some of the recommendations of the NTSB and Congress through this rulemaking. Although RSPA/OPS has never collected inventory information from hazardous liquid pipeline operators, RSPA/OPS has been collecting this information from natural
gas pipeline operators since the 1970s. In a 1983 Federal Register notice (48 FR 13450), RSPA/OPS solicited comments on proposed revisions to certain reports, including annual reports for gas pipeline operators. In that notice, RSPA/OPS said: ``[o]n the suggested annual forms, consistency of column titles will enable cross comparison of data on a larger scale and will present a workable method to facilitate analysis of possible safety problems. Therefore, in light of the size of the nationwide pipeline system and the importance of the [OPS] role in developing and enforcing an effective pipeline safety program, the annual report represents the foundation for conducting analyses of the pipeline data.''

RSPA/OPS believes that this hazardous liquid annual report information collection also represents the foundation for conducting analyses of the hazardous liquid pipeline accident data. RSPA/OPS acknowledges the need for consistent pipeline information for both natural gas and hazardous liquid pipelines. The resulting information will allow RSPA/OPS to standardize pipeline safety statistics for most types of pipelines, which will make data analysis more efficient and meaningful.

RSPA/OPS utilizes the information it receives from gas transmission and distribution annual report and incident forms in many ways. For example, RSPA/OPS uses the annual report information to calculate corrosion leaks per mile, per company. This information may be used along with other information to prioritize pipeline inspections. RSPA/OPS can also track reductions in the mileage of cast iron pipe. RSPA/OPS can investigate whether the use of plastic pipe correlates to fewer accidents, especially in natural gas distribution systems.

New by-state reporting requirements for natural gas transmission annual reporting will allow us to provide State pipeline safety offices, State governors and State legislators with better information on pipeline mileage under their jurisdiction. Leak rates per mile per company can be tallied and used in evaluation of pipeline operator safety performance. This data will enable individual companies to measure the effectiveness of their safety practices. We need national data to help determine whether pipelines are more or less safe as a result of pipeline system improvements. These are just some of the benefits of receiving annual report information from natural gas

pipeline companies. RSPA/OPS anticipates similar improvements in hazardous liquid safety information from use of the proposed form.

The proposed form is substantially similar to the Annual Report form for gas transmission and gathering systems, (Form RSPA F7100-2.1).

This form was updated on August 8, 2001. Similarity of forms translates into improved analytical capability for both the gas and hazardous liquid pipeline industries. RSPA/OPS proposes to name the new Hazardous Liquid Pipeline Operator Annual Report form ``RSPA F7000-1.1 Hazardous Liquid Pipeline Operator Annual Report form.'' RSPA/OPS proposes to collect information on the form annually by March 15 for the preceding calendar year. Operators will be able to submit the form in hard copy to the RSPA/OPS Information Resources Manager, at the same address for filing hazardous liquid accident reports; or, by electronic submission on the RSPA/OPS

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Online Data Entry System, a World-Wide-Web-based reporting system available via the RSPA/OPS Internet Home Page at http://ops.dot.gov.

RSPA/OPS includes the proposed hazardous liquid pipeline operator annual report form and instructions with this notice and invites comments on them.

What Information Does RSPA/OPS Propose To Collect on the Annual Report Form?

The proposed annual report form asks whether an operator's system carries crude oil, highly volatile liquid (HVL), refined petroleum product, or other hazardous liquid (i.e., anhydrous ammonia and carbon dioxide). The form also asks for total miles of pipeline in each State,

in intrastate and interstate commerce; cathodically protected versus bare steel pipeline; steel pipeline by decade and diameter; electric resistance welded (ERW) pipeline by decade and weld type; and regulated and unregulated gathering lines. In addition, the form would require

reporting of the percentage of systems that have been internally inspected; percentage of transmission systems in a rural area (the definition of ``rural area'' is in 49 CFR 195.2); information on breakout tanks; an additional report form for each state within which the system operates; and an additional report form for offshore mileage.

Why Does RSPA/OPS Need an Annual Report Form for Hazardous Liquid Operators?

Normalizing the Data

RSPA/OPS will be able to use data from the annual report form to compute a leak rate per mile of pipeline and other statistics. Armed with better statistics, RSPA/OPS will be able to better understand safety trends and to focus inspection efforts. To illustrate, let's consider what is needed to compare the corrosion leak frequency of two companies. Suppose that Company A and Company B are two companies with the same number of corrosion leaks over a ten year period. From the hazardous liquid accident report we can determine the frequency (number) of leaks that occur as a result of corrosion. Suppose that both Company A and Company B reported 25 corrosion leaks in the last decade in the same state. The number of leaks that each company had within the state in the last decade is insufficient information to

determine whether Company A or Company B has the higher rate of corrosion.

To determine which of the two companies has the higher rate of corrosion within the state, we must compute the leak rate per mile for each of the companies. This computation requires additional information that RSPA/OPS does not currently collect and that the proposed hazardous liquid annual report form would supply, namely, total miles of pipeline installed for each of the companies within the state. Assume, for our example, that Company A operates 500 miles of pipeline in the state while Company B operates 2000 miles of pipeline in the

state. Company A's corrosion leak rate for the decade in the state computes to 25 leaks /500 miles /10 years, or .005 leaks per mile per year. Company B's corrosion leak rate for the decade in the state computes to 25 leaks/2000 miles /10 years, or .00125 leaks per mile per year. Company A is therefore 4 times more likely to have a corrosion leak in the state than Company B. The above analysis is an exercise in ``normalizing'' the data. Comparisons such as the one above are useful in safety analyses. The proposed form requests information that will make such comparisons possible.

Other Uses of the Data

RSPA/OPS needs accurate, meaningful pipeline information for: general trending of pipeline safety data; risk assessment; scheduling standard safety inspections; deciding which pipelines need replacement versus rehabilitation; comparing individual operator performance

with
industry performance; cost-benefit analysis; regulatory development; monitoring industry performance and regulatory compliance; and RSPA/OPS resource allocation.

State pipeline safety programs with hazardous liquid pipeline safety responsibility also need the information for these purposes. Currently, the information collected from the gas pipeline operator annual report (available on the RSPA/OPS website) is widely used by third parties, including State governors, Congress, metropolitan planners, pipeline research engineers, industry safety experts, the media, and the public.

The proposed annual report form will collect data that hazardous liquid pipeline operators can use to measure their performance against other operators and the industry. We believe that having national minimum standards for inventory information will assist companies in their development of operational, maintenance, and other procedural documentation. Improved inventory record-keeping will yield better data
for pipeline safety research, the goals of which are safer pipelines and a cleaner environment.

What Alternatives to an Annual Report Form for Hazardous Liquid Operators Did RSPA/OPS Consider?

RSPA/OPS considered collecting the annual report information through API's already established PPTI. Because participation in PPTI is voluntary and anonymous, RSPA/OPS determined that this option was inadequate. PPTI data would not meet the needs of RSPA/OPS, the States, and the public for complete information on the safety and environmental performance of pipeline facilities. RSPA/OPS needs to collect this information because it is not otherwise available.

RSPA/OPS also considered collecting the information via the National Pipeline Mapping System (NPMS). Practical problems arose in attempting to integrate annual report information into the NPMS database. Submission of inventory information to NPMS would have to be on a per-pipeline-segment basis, greatly increasing the labor and costs for NPMS submissions. For example, if we were to collect pipeline diameter information via NPMS, each company would have to provide pipeline segment information each time the operator changed the diameter of the pipe. Currently pipeline diameter is an optional reporting item on NPMS.

Finally, unresolved issues regarding frequency of NPMS data submission, standards for accuracy of submission, and its voluntary nature render NPMS an imperfect vehicle for collecting hazardous liquid pipeline inventory data.

Rulemaking Analyses

Executive Order 12866 and DOT Policies and Procedures

RSPA/OPS does not consider this NPRM to be a significant regulatory action under Section 3(f) of Executive Order 12866. RSPA/OPS also does not consider this NPRM to be significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979).

A copy of the Draft Regulatory Evaluation is available for review in the docket. This section summarizes the findings of the draft regulatory evaluation. This NPRM is intended to supply data necessary for the proper analysis of hazardous liquid pipeline safety issues.

This proposal amends the pipeline safety regulations by requiring hazardous liquid pipeline operators to annually report information on: pipe inventory by state, diameter, and decade of installation; information about breakout tank number and capacity; and other aspects of their pipeline systems.

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Benefits

Hazardous liquid pipeline system inventory information is needed for: meaningful trending of hazardous liquid pipeline accident safety issues; risk assessment; recommendations regarding rehabilitation or replacement of pipeline segments; analysis of costs and benefits; and comparison of individual operator performance against industry performance. This safety information will be used by RSPA/OPS for daily decision making in RSPA's/OPS's assessment of pipeline risks, regulatory development, and programmatic resource allocation. RSPA/OPS also uses the information in monitoring industry performance and regulatory compliance, and for planning company standard safety inspections. States, local community planners, and emergency responders will benefit from having information about hazardous liquid pipeline
systems for comparing local risks against the national level and for other purposes. Industry will ultimately benefit when RSPA/OPS establishes from the collected information a baseline measurement for pipeline company safety performance.

Costs

The form asks for information that should be readily available to the operator on the operator's databases. RSPA/OPS expects that ultimately the time required to complete the form will decrease as operators adjust their computerized systems to track the requested information. RSPA/OPS estimates it will take an operator 12 hours (246 fields x 3 minutes per field) to complete the form the first year and half as long (6 hours annually) in subsequent years. RSPA/OPS recognizes that where companies have merged with other companies, information about pipeline mileage by decade installed may not be available. The form provides a category labeled ``unknown'' in which an operator may estimate the decade the pipeline was installed. Based on the number of participants in the NPMS, the number of hazardous liquid pipeline operators filing annual reports will be approximately 300.

RSPA/OPS estimated the hourly cost of the person completing the form at $40. The $40 figure was based on the U.S. Department of Labor's National Occupational Employment and Wage Earnings for 1999. According to that document, the hourly wage for a Transportation, storage, and Distribution Manager (the closest category to a pipeline manager) was $26.03 per hour. The $26.03 figure was multiplied by 1.35 to account for fringe benefits ($26.03 x 1.35 = $35.14). RSPA/OPS added an inflation factor of 14% to account for inflation from 1999 to 2002 ($35.14 x 1.14 = $40.05).

RSPA/OPS estimates that it will take an operator about 12 hours to complete the form the first year it is in use. Based on an average cost of $40 per hour, the cost to industry of completing the form for the first year will be $144,000.00 (300 forms x 12 hours x $40 per hour = $144,000.00). Total hours expended by industry to complete the form in the first year will be 3,600 hours (300 forms x 12 hours = 3,600 hours).

After the first year, once company computer systems are adjusted to provide the information in the format requested, the total annual industry cost will be $72,000.00 (1,800 x $40 = $72,000.00). After the first year, total hours expended by industry to complete the form will be 1,800 hours (300 forms x 6 hours = 1,800 hours).

Conclusion

RSPA/OPS believes that the initial annual cost of $144,000.00 and ongoing annual cost of $72,000.00 annually is a relatively modest burden on the hazardous liquid pipeline industry. The benefits accruing to RSPA/OPS and the pipeline industry through the increased utility of
the hazardous liquid accident data should easily outweigh this modest cost. The additional information will allow RSPA/OPS and the hazardous liquid pipeline industry to identify safety issues and trends, and allow operators to make changes to procedures and practices that will ultimately reduce pipeline accidents and improve pipeline safety.

Regulatory Flexibility Act

The NPRM's first year industry cost of $144,000.00, divided by the approximately 300 hazardous liquid pipeline operators, results in an average cost of $480.00 per operator. Subsequent annual costs to complete the form is approximately $240.00 per operator ($72,000.00 divided by 300 operators).

The Small Business Administration's (SBA) criteria for defining a small entity in the hazardous liquid pipeline industry is 1,500 employees, as specified in the North American Industry Classification System codes (486110--Pipeline Transportation of Crude Oil and 486910—
Pipeline Transportation of Refined Petroleum Products). RSPA/OPS does not collect information on number of employees or revenues for pipeline operators. Such a collection would require OMB approval. RSPA/OPS nevertheless continues to seek information about the number of small pipeline operators from which to more fully determine impact on small entities (companies with less than 1,500 employees, counting employees of parent corporations). For several years RSPA/OPS has sought public comment from small hazardous liquid operators.

For the RSPA/OPS Hazardous Liquid Pipeline Accident Reporting Revisions Notice of Proposed Rulemaking (66 FR 15681; March 20, 2001), RSPA/OPS sought input from the public on the impact of the NPRM on small entities. No one responded to this request. The SBA Chief Counsel for Advocacy, however, made comments on behalf of small businesses. SBA asked how many hazardous liquid pipeline operators would RSPA/OPS characterize as small operators. RSPA/OPS solicited public comment from small operators in its recent rulemakings on pipeline integrity management. No comments from small hazardous liquid operators were forthcoming.

The hazardous liquid pipeline industry is a highly competitive, capital intensive industry which in recent years has seen many mergers and buyouts. If you are an operator of a small company, RSPA/OPS requests that you identify yourself to us to help us more accurately determine impact on small businesses of this and future rulemakings (see the ADDRESSES and SUPPLEMENTARY INFORMATION sections above for how to provide comments).

Although RSPA/OPS does not have information that can identify which companies are small businesses per SBA's criteria, the cost to be imposed by this rulemaking is very small. The average cost for all companies based on an estimated total impact of $72,000 annually is $240.00 per operator ($72,000/300 operators) with an initial first year cost of $480.00 per operator ($144,000/300 operators). We believe the

benefits of this NPRM far outweigh this small per company cost. Based on the small cost to companies of any size and to the industry at large of this NPRM, I certify pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this NPRM would not have a significant impact on a substantial number of small entities. If you have any information that this conclusion about the impact on small entities is not correct, please provide that information to the public docket described in the SUPPLEMENTARY INFORMATION section.

Paperwork Reduction Act

This NPRM contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the DOT has submitted a copy of the Paperwork

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Reduction Act Analysis to the Office of Management and Budget (OMB) for its review.

The approximately 300 hazardous liquid pipeline operators will be required to submit one report annually per company, or 300 reports annually. The total hour burden the first year will be 12 hours per operator. For the entire industry, the burden will be 3,600 hours (12 hours x 300 operators) costing $144,000.00 the first year ($40 per hour x 3,600 hours). Every year thereafter, the burden will be 6 hours per operator. For the entire industry, the burden will be 1800 hours (6 hours per operator x 300 operators = 1800 hours). The total annual cost after the first year is 1,800 hours x $40/hr = $72,000.00.

Organizations and individuals desiring to submit comments on the information collection should direct them to the addresses listed in the ADDRESSES section of the preamble. Also see the SUPPLEMENTARY INFORMATION section for how to submit comments. Comments must be sent within 60 days of the publication of this notice.

The OMB is specifically interested in the following issues concerning the information collection:

1. Evaluating whether the collection is necessary for the proper performance of the functions of the DOT, including whether the information would have a practical use;

2. Evaluating the accuracy of the DOT's estimate of the burden of the collection of information, including the validity of assumptions used;

3. Enhancing the quality, usefulness and clarity of the information to be collected; and

4. Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

The Paperwork Reduction Act of 1995 does not require a person to respond to a collection of information unless a valid OMB control number is displayed. The valid OMB control number for this information collection will be published in the Federal Register after it is approved by OMB. For more details, see the Paperwork Reduction Analysis available for copying and review in the public docket.

Executive Order 13175

The NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13175, ``Consultation and Coordination with Indian Tribal Governments.'' Because the NPRM would not significantly or uniquely affect the communities of the Indian
tribal governments and would not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Unfunded Mandates Reform Act of 1995

This NPRM would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of $100
million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and would be the least burdensome alternative that achieves the objective of the rule.

National Environmental Policy Act

We have analyzed the NPRM for purposes of the National Environmental Policy Act (42 U.S.C. 4321 et seq.). Because the NPRM parallels present reporting requirements and practices for gas pipeline operators, we have preliminarily determined that the NPRM would not

significantly affect the quality of the human environment. Generally, collection of information does not result in an environmental impact. A final determination on environmental impact will be made after the end of the comment period. If you disagree with our preliminary conclusion,
please submit your comments to the docket.

Executive Order 13132

The NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (``Federalism''). The NPRM does not propose any regulation that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts state law.
Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Executive Order 13211

RSPA/OPS has determined that this NPRM does not constitute a significant energy action within the meaning of EO 13211, ``Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' This NPRM will not result in adverse effects on energy supply, distribution, or use.

Executive Order 13212

Because this NPRM is not an energy-related project, EO 13212, ``Actions to Expedite Energy-Related Projects,'' does not apply.

Executive Order 12630

This NPRM does not affect or potentially affect the use or value of real, personal, or intellectual property. Executive Order 12630, ``Governmental Actions and Interference with Constitutionally Protected Property Rights,'' does not, therefore, apply to this NPRM.

List of Subjects in 49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, RSPA/OPS proposes to amend 49 CFR part 195 as follows:

PART 195--TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

1. The authority citation for part 195 would continue to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

2. The title to Subpart B would be revised to read as follows:

Subpart B--Annual, Accident, and Safety-Related Condition Reporting

3. Section 195.49 would be added to Subpart B to read as follows:

Sec. 195.49 Annual report.

Each operator of a hazardous liquid or carbon dioxide pipeline system shall submit an annual report for that system on DOT form RSPA F7000-1.1. This report must be submitted each year, not later than March 15, for the preceding calendar year.

Issued in Washington, DC on July 18, 2002.
Stacey L. Gerard,
Associate Administrator for Pipeline Safety.

Instructions for Completing Form RSPA F 7100.2-1 (Rev. 11-2000)

Annual Report for Calendar Year YYYY Hazardous Liquid Pipeline Systems

General Instructions

All section references are to Title 49 of the Code of Federal Regulations.

Each hazardous liquid system operator with a total of 1 or more miles of pipeline is required to file an annual report. Complete a separate report for mileage for each state in which the operator's pipeline system operates.

The terms ``barrel'', ``breakout tank'', ``carbon dioxide'', ``gathering line'', ``intrastate'', ``interstate'', ``hazardous liquid'', ``highly volatile liquid (HVL)'',

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``offshore'', ``outer continental shelf (OCS)'', ``specified minimum yield strength (SMYS)'' are defined in Sec. 195.2. The term ``operator'' is defined in Sec. 195.2 as a person who owns or operates pipeline facilities. For purposes of this report, the operator is further defined as the person (``person'' is defined in 49 CFR 195.2) who exercises substantial control over the operation of the pipeline.

Reporting requirements will be at Sec. 195.49--Annual report, Title 49 of the Code of Federal Regulations (CFR) Transportation of Hazardous Liquids by Pipeline upon completion of rulemaking. Annual reports must be submitted by March 15 for the preceding calendar year. Report Total miles of pipeline in the system at the end of the reporting year, including additions to the system during that year. Reports should be submitted to the address in Sec. 195.58 (currently Information Resources Manager, Office of Pipeline Safety, Room 7128,
400 7th St. SW., Washington, DC.

If you have questions about the report or these instructions, or need copies of Form RSPA F 7000-1.1(01-03), please contact the Information Resources Manager, RSPA, Office of Pipeline Safety, at (202) 366-4569. Copies of the form and instructions are on the Office of Pipeline Safety home page, http://ops.dot.gov in the FORMs section of the ONLINE LIBRARY upon completion of rulemaking. Please type or print all entries.

Please round all mileage to the nearest mile. DO NOT USE DECIMALS OR FRACTIONS. Round decimals or fractions to the nearest whole number, e.g., \3/8\ or 0.375 should be rounded down; \3/4\ or 0.75 should be rounded up; \1/2\ or 0.5 should be rounded up. The entry for ``Total miles of pipe'' in Part B and Part C should be identical and reflect system totals. Note: the form requests reporting in miles of pipeline, not feet.

Make an entry in each block for which data is available. Estimate data if necessary. Try to avoid entering mileage in the Unknown columns if possible. We recognize that some companies may have very old pipe for which installation records may not exist. Enter estimate of the total of such mileage in the ``Pre-40 or UNKNOWN'' section of Part B: ``Miles of Pipe by Location/Protection/ Decade''.

Specific Instructions

Enter the Calendar Year for which the report is being filed. Check Initial Report if this is the original filing for this calendar year. Check Supplemental Report if this is a follow-up to a previously filed report to amend or correct information. On Supplemental Reports, enter all information requested in Parts A and J, and only the new or revised information for the remainder of the form.

Enter the State for which information is being reported. An operator should submit a separate report for all hazardous liquid operations for each State in which it operates. A company may submit separate reports for subsidiaries or affiliate operations. Please do not report any pipeline facility more than once. For System Type, check all boxes that apply.

Include petroleum gathering line mileage under crude oil systems.

Part A--Operator Information

Insert the operator name and address data. Enter the address where additional information can be found.

The operator's five digit identification number appears on the RSPA mailing label. If the person completing the report does not have the identification number, this information may be omitted.

Please adhere to definitions in Title 49 part 195 of the Code of Federal Regulations when reporting pipeline mileage.

Part B--Miles of Steel Pipe by Location/Protection/Decade

Coated means pipe coated with an effective hot or cold applied dielectric coating or wrapper.

Part F--Miles of Gathering Lines

Report mileage of regulated and unregulated gathering lines within each state. Report any and all mileage offshore in a separate report. Gathering lines are defined in CFR Sec. 195.2 as ``a pipeline 219.1 mm (8\5/8\ or less nominal outside diameter that transports petroleum from a production facility.'' Rural gathering lines are considered to be unregulated gathering lines in accordance with 195.1(b)(4).

Part G--Breakout Tanks

List number of tanks by capacity and by commodity. For purposes of this reporting, we seek information in 4 commodity categories: crude, refined products, highly volatile liquids (HVL), or Anhydrous Ammonia/Carbon Dioxide. In the ``Total Capacity, Barrels'' section, enter the total number of tanks in the appropriate box for each of these 4 commodity categories.

Part H--Total Volumes

Include annual volume transported totals in barrel-miles regardless of state. We recognize that it is difficult or impossible to currently measure volume transported by state. We therefore require, for those operators with pipelines in multiple states, that Part H be completed only for the first of the operator's states in alphabetical order. For each subsequent report by state, please reference the state for which Part H is completed (e.g., if operator has pipelines in Alabama and Texas, then on the Texas form in Part H the operator enters ``reported for State of AL'').

Part J--Preparer And Authorized Signature

PREPARER is the name of the person most knowledgeable about the report or the person to be contacted for more information. Please include the preparer's E-mail address if there is one. Authorized Signature may be the preparer or an officer or other person whom the operator has designated to review and sign reports.

BILLING CODE 4910-60-P

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[GRAPHIC] [TIFF OMITTED] TP26JY02.000

[[Page 48851]]

[GRAPHIC] [TIFF OMITTED] TP26JY02.001

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. RSPA-00-7666; Amendment 192-77]
RIN 2137-AD64

Pipeline Safety: High Consequence Areas For Gas Transmission Pipelines

AGENCY: Office of Pipeline Safety (OPS), Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule defines areas of high consequence where the potential consequences of a gas pipeline accident may be significant or may do considerable harm to people and their property. The definition includes: current class 3 and 4 locations; facilities with persons who
are mobility-impaired, confined, or hard to evacuate, and places where people gather for recreational and other purposes. For facilities with mobility-impaired, confined, or hard-to-evacuate persons and places where people gather, the corridor of protection from the pipeline is 300 feet, 660 feet or 1000 feet depending on the pipeline's diameter and operating pressure. This final rule

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is the first step in a two-step process to develop integrity management program requirements for gas transmission operators. In the second step, the Research and Special Programs Administration (RSPA) will propose requirements to improve the integrity of gas transmission pipelines located in these high consequence areas. This definition satisfies, in part, the Congressional mandate in 49 U.S.C. 60109 for RSPA to prescribe standards that establish criteria for identifying each gas pipeline facility located in a high-density population area.

RSPA developed the definition from the comments received on the notice of proposed rulemaking, and the earlier notice that invited public comment about integrity management concepts as they relate to gas pipelines. The definition does not yet require any specific action by gas transmission pipeline operators. Action will not be required until we issue integrity management program requirements that use the definition.

DATES: This rule is effective September 5, 2002.

FOR FURTHER INFORMATION CONTACT: Mike Israni by telephone at (202) 366-4571, by fax at (202) 366-4566, or by e-mail at mike.israni@rspa.dot.gov, regarding the subject matter of this rule; or the Docket Facility (202) 366-9329, for copies of this rule or other material in the docket. All materials in the docket may be accessed electronically at http://dms.dot.gov. General information about the RSPA/OPS programs may be obtained by accessing OPS's Internet page at http://ops.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

On January 9, 2002, RSPA published a notice of proposed rulemaking (67 FR 1108) that proposed to define areas of high consequence where a gas pipeline accident could do considerable harm to people and their property. The proposed definition included as high consequence areas:
Class 3 and 4 locations as defined in 49 CFR part 192; areas where a pipeline is within 660 or 1000 feet of a building with mobility-impaired or confined persons (hospitals, schools, retirement and day-care facilities); and areas where a pipeline is within 660 or 1000 feet of a place where 20 or more people gather at least 50 days in any 12-month period (playground, camping ground). The 1000-foot area was proposed for a pipeline with a diameter larger than 30 inches and operating at a pressure greater than 1000 psig.

In the Notice proposing the definition, we explained that because of differences in the physical properties and consequences of a gas release versus a hazardous liquid release, and the benefits of gas transmission operators already maintaining accurate data on population near their pipelines, the definition differed from the definition we developed for hazardous liquid pipelines (49 CFR 195.450). The primary differences were that we structured the proposed definition to use the data pipeline companies already collect and maintain, and we did not include environmentally sensitive areas. A more detailed discussion of why the definitions were structured differently for liquid and gas pipelines can be found in the NPRM (67 FR 1108; Jan. 9, 2002).

Advisory Committee Consideration

On July 18, 2002, the Technical Pipeline Safety Standards Committee (TPSSC) met to review the proposed high consequence area definition for gas transmission pipelines. TPSSC is the Federal advisory committee charged with responsibility for advising on the technical feasibility, reasonableness, cost-effectiveness, and practicability of proposed natural gas pipeline safety standards. The committee voted unanimously to approve our proceeding with the high consequence area rule with consideration of several issues. First, the committee recommended that the preamble clarify that, although the definition requires no specific action on the part of operators, the rule applies only to gas transmission pipelines. RSPA has made the clarification. Second, the committee recommended that wording be included in the preamble
clarifying that the definition is the first step in the process of defining requirements for managing the integrity of gas pipelines. RSPA has clarified the preamble. The upcoming proposed integrity management rule for gas transmission pipelines will describe the additional integrity assurance measures gas transmission operators will be required to implement for pipeline segments that are located in high consequence areas. Third, the committee recommended that we modify the provision defining areas where people congregate to add the word
``known.'' RSPA agrees with the intent of this comment and has revised the definition and preamble to reflect this intent. Finally, the committee recommended that RSPA consider renaming the definition as ``Potential'' High Consequence Areas. In making this recommendation, the committee was under the impression that the proposed integrity management rule would give operators the opportunity to analyze high consequence areas using the ``potential impact zone'' concept to identify areas within the high consequence area where no additional integrity management measures would be required. Because this issue will be addressed directly in the upcoming proposed integrity
management rule, RSPA believes that renaming the definition would not be appropriate.

Comments to NPRM

We received comments from 28 sources in response to the NPRM:

Three (3) public interest groups or individual members of the public
- Citizens for Safe Pipelines (a New Mexico citizens' group)
- Cook Inlet Keeper
- Gary L. Smith

Five (5) state agencies
- Iowa Utilities Board
- State of New York Department of Public Service (NYDPS)
- State of New York, Office of the Attorney General
- Washington State Department of Ecology (Ecology)
- Washington Utilities and Transportation Commission (WUTC)

Five (5) industry associations
- American Gas Association (AGA)
- American Public Gas Association (APGA)
- Gas Piping Technology Committee (GPTC)

Interstate National Gas Association of America (INGAA)
New York Gas Group (NYGAS)
18 natural gas pipeline operators
Baltimore Gas & Electric Company, ChevronTexaco, CMS Energy, Consumers Energy Company, Duke Energy Gas Transmission, El Paso Corporation, Enbridge Energy Company, Inc., Enron Transportation Services, Kinder Morgan, National Fuel Gas Supply Corporation, the Energy Distribution Segment of NiSource Inc. (NiSource EDG), North Shore Gas Company, Pacific Gas and Electric Company, PECO Energy, Peoples Gas Light and Coke Company, Questar Regulated Services, Southwest Gas and, Williston Basin Interstate Pipeline Company.
One (1) risk management consulting company
Accufacts, Inc.
One (1) suspension bridge engineering and construction company
SEFBO Pipeline Bridge, Inc.

In the following section we discuss these comments and how we addressed them in developing the final definition

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of high consequence areas for gas transmission pipelines.

General Comments

Placement of Definition

The Notice proposed to place the definition of high consequence areas in a new section in Part 192, subpart M on integrity management.
Southwest Gas Corporation suggested that the definition of high consequence area be added to the general definition section in part 192 (Sec. 192.3) so that all definitions are in the same location.
Response: We will leave the definition of high consequence areas in the section on integrity management. Because this definition will be used in the forthcoming integrity management program regulations, it fits better in this section rather than in the section on general definitions.

Lines Covered

The proposed definition of high consequence areas applied to all gas transmission pipelines.
Several commenters recommended excluding certain low stress pipelines from the definition. These commenters explained that lower stress pipelines tend to result in leaks, rather than ruptures. Suggestions varied on which low stress pipelines we should exclude.
Many of the commenters (AGA, APGA, Consumers Energy, National Fuel Gas Supply Corporation, North Shore Gas, New York Gas Group, Peoples Gas, Questar, Southwest Gas) recommended that the definition be limited to transmission pipelines operating at or above 20% of specified minimum yield strength. Baltimore Gas & Electric recommended exempting transmission piping operated as part of and integral to a distribution system if the piping is operated below a determined pressure, such as 300 psig and is less than a determined diameter, such as 30 inches. CMS Energy recommended excluding from the definition pipelines that operate at pressures lower than 40% of the maximum hoop stress. Energy Distribution Segment of NiSource Inc. recommended that high consequence areas be limited to pipelines operating at or above 30% SMYS.
The Iowa Utilities Board suggested RSPA consider developing separate integrity management program requirements for pipelines operating at stress levels below 30% SMYS. The Utilities Board maintained that the C-FER method is not an appropriate indicator of the high consequence area for pipelines operating at stress levels below 30% SMYS. The Iowa Board explained that because these pipelines fail by
leakage rather than by rupture, the C-FER formula significantly overestimates the potential impact zone. (More discussion on the C-FER formula appears later in this document.)
New York State Department of Public Service urged that integrity management be applied to all gas transmission pipelines, not just those that traverse a high consequence area. The Department suggested that pipelines in high consequence areas could have higher priority for testing and repair.
Response: We have not revised the definition to exclude pipelines operating below a certain stress level. The high consequence area

definition applies to gas transmission pipelines, as those lines are defined in part 192. Lines not falling withing the definition of transmission line are not covered. We will consider ways to address transmission pipelines operating at lower stress in developing the proposed integrity management rule for gas transmission pipelines. However, as discussed later in this document, we have added to the definition a 300-foot zone for small diameter pipelines operating at lower pressure.

As for extending integrity management to all transmission lines, RSPA's initial goal is to provide greater assurance of pipeline integrity in geographic areas where a gas pipeline rupture could do the most harm to people. Once we propose and implement the integrity management program requirements for the areas we define, we will study the results and consider how effective it would be to extend added protection to other areas.

Class 3 and 4 Locations--Proposed 49 CFR 192.761 (a) and (b)

The proposed definition of high consequence areas included class 3 and class 4 locations, as those areas are defined in Sec. 192.5. In the Notice, we said that because class location definitions are based on population density, gas operators already maintain current data on the location of people in areas adjacent to their pipelines. It seemed more logical to structure a definition using this data rather than basing the definition on a Census Bureau definition, as we had done for hazardous liquid pipelines.

All commenters supported basing the definition of high consequence areas on current class location regulations.

However, several pipeline distribution companies (Baltimore Gas & Electric, NiSource EDG, PECO Energy) objected to RSPA's assumption that information about population density is in the hands of operators. These commenters explained that many local distribution companies utilized class four criteria when constructing a facility, and, therefore, never established a population density baseline and do not track changes in population density.

AGA and APGA disagreed with our statements in the NPRM about the quality, timeliness and accuracy of class location data. AGA and APGA objected to the assumption that class location regulations require operators to periodically monitor and record data on increases in population near their pipelines, and that this data monitoring gives an accurate picture of where people live and work who can be affected by a
release. These associations explained that many operators in metropolitan areas design their transmission lines for a Class 4 location even though the classification might be a class 2 or 3; therefore, subsequent population increases do not require detailed surveys of the area. Or if a pipeline is in a class 3 location, the operator need only determine if buildings of four or more stories become prevalent, rather than perform a survey of population density. AGA and APGA further objected to our characterizing the data operators have on buildings within 660 feet as adequate to identify the high consequence areas. They explained that the existing house count data is good information but it may not be extensive, detailed or approach real-time analysis. Consumers Energy pointed out that by including class 3 areas, the burden is placed on local distribution company feeder systems. The company explained that its entire system would be treated as a high consequence area whereas many cross-country pipelines have few class 3 areas. PECO Energy commented that annual aerial photography and weekly aerial or foot patrols would be needed to keep current information on populations or buildings within 660 feet of its pipeline.

Response: RSPA recognizes that some operators, particularly local distribution companies, may have designed their pipelines for a class 4 location, and, as a consequence, may not maintain current data on the number and location of buildings near their pipelines. However, we continue to believe that it is preferable to base a definition for high consequence areas for gas transmission operators on the existing class location definitions, and to allow the majority of operators to use the information they have on people and buildings near their pipelines rather than to base the definition on the Census Bureau

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definitions. An operator who does not maintain the data needed to define a class location will need to decide whether to treat its entire system as being within a high consequence area, or to take steps to identify which segments of the system are actually in high consequence areas. Either decision will be acceptable to OPS.

Hard-To-Evacuate Facilities--Proposed Secs. 192.761 (c) and (d)

The NPRM proposed to include areas where a pipeline lies within 660 feet of a hospital, school, day-care facility, retirement facility, prison, or other facility having persons who are confined, are of impaired mobility or would be difficult to evacuate. The proposed area of protection increased to 1000 feet for a pipeline greater than 30 inches in diameter and operating at a maximum allowable operating pressure greater than 1000 psig. In the NPRM, we said we wanted to ensure that areas where there are facilities with people who may not be able to evacuate the area quickly are better protected from a potential release.

The State of New York's Office of the Attorney General supported the proposed definition. As discussed below, other commenters recommended revisions.

AGA and APGA supported including areas with buildings occupied by persons with limited mobility, but maintained that we should better
define these facilities to allow operators a reasonable chance of identifying them. The trade associations explained that it would be impractical for operators to identify ``other facilities having persons who are confined, are impaired, or would be difficult to evacuate" because these facilities could include home-based day-care facilities housing only one or two people. APA and APGA proposed that we include clarifying language such as ``licensed facilities" or ``known facilities that are visibly marked and occupied by a defined number of people." AGA and APGA also noted that the phrase ``difficult to evacuate" could refer to either the building itself or to the occupants of the building.

Baltimore Gas & Electric maintained that it would have problems identifying facilities unless there is some publicly available data source. The distribution system operator argued that without corresponding data validation source references, the definition creates an unattainable requirement on system operators.

CMS Energy argued that there was no method for distinguishing what constitutes a facility or how many people need to occupy a building for it to be considered a school or hospital. The transmission system operator commented that a definition needs a minimum number of people
that have to be associated with a day care facility, school or retirement facility to prevent including residences that are used for such purposes. CMS Energy suggested using the number from the outside area of the class 3 definition, because operators could use information currently available to them and minimal retraining of field personnel would be needed.

Consumers Energy commented that facilities, such as day care facilities, are difficult to discover because they may be small, located within homes and have short business lives. The company recommended adding a requirement that at least 20 persons occupy a facility for it to be included. Consumers Energy further suggested revising the phrase difficult to evacuate because the phrase could be interpreted as meaning the people are difficult to evacuate, or the facility is difficult to evacuate because of lack of staff.

Duke Energy recommended that the language be clarified to state that facilities must be public, licensed, and marked visibly as viewed from the nearest public roadway. Duke Energy argued that operators cannot be expected to determine the locations of private, home-based day-care facilities or private homes. The company further recommended that the phrase difficult to evacuate be removed because the language
is vague.

El Paso commented that revising the definition to include facilities that are public, licensed and visibly marked when viewed from the nearest public roadway would help operators identify the facilities.

Enbridge recommended specifying that facilities have to be clearly identified by external signs. Enbridge explained that there are numerous family day-care settings, group homes for home-schooled foster children, ill or elderly, but that operators cannot be expected to identify these facilities unless they are marked. Enbridge further explained that because licensing requirements vary, operators cannot always get this information through public officials.

Enron Transportation supported including these facilities in the definition but suggested we clarify the definition by adding ``or other similar, well defined facility having persons who are confined * * *"

The Gas Piping Technology Committee suggested that RSPA discuss what attributes qualify a facility for coverage, whether commercial databases are available, and if public officials have this information.
The technical committee recommended that facilities be known, and that they normally have at least 20 persons.

INGAA recommended that the facilities included in the definition be public, licensed and marked visibly from the nearest public roadway,
because operators could not be expected to identify private, home-based daycare facilities or private homes with retirement-age people. INGAA further argued that the phrase difficult to evacuate is vague. National Fuel Gas Supply Corporation suggested we more closely delineate the facilities covered by the definition because operators cannot identify unmarked homes with handicapped persons.

New York Gas Group commented that local distribution companies would not be able to identify these facilities. The trade association explained that unless the facilities are licensed or are on lists maintained by local municipalities, it would be too resource intensive and impractical to locate these facilities. New York Gas Group recommended that we require operators to obtain the lists on a periodic basis.

North Shore objected that the proposed language did not include a minimum number of people that have to be in a facility, and suggested a
20-person minimum. North Shore argued that without a minimum, places such as a small police station or in-home day care would be included.
The distribution company further suggested that the definition require facilities to be known, and the phrase difficult to evacuate be clarified to apply only to facilities with confined or mobility-impaired persons. Pacific Gas and Electric Company recommended specifying a minimum number of 20 persons in a facility. The company also recommended we require that the facility be licensed to help ensure the information is available or that we work with the states to develop a database of all facilities that should be considered high consequence areas.

PECO Energy recommended specifying that the facilities be known facilities to ensure that operators have knowledge of the facility. The company explained that small operators might not have knowledge of newer facilities constructed or buildings renovated for these purposes.

Peoples Gas recommended adding a lower bound on the number of people that are present in the facility, and to add the word ``known.'' Peoples Gas suggested that the phrase difficult to

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evacuate apply to facilities with confined or mobility-impaired persons and not be an additional, separate factor because any structure in an emergency could be difficult to evacuate.

Questar commented that it was unclear if the proposed language refers to buildings that are difficult to evacuate because of the number of occupants, the design of the building, or because the occupants are confined or are impaired. Questar argued that the focus should not be on building design. Questar was not in favor of including schools in the examples. Questar explained that schools would probably be covered under the existing class location definitions, and that many types of schools are not in use all week and are not occupied by persons with impaired mobility. The company suggested that because day-care facilities may be home-based, and not visibly marked, and not known to local governments, and because certain types of retirement facilities may be difficult to identify, we should limit the definition
to licensed day care and retirement facilities that are clearly marked and visible from a public roadway. Questar further recommended adding a
threshold number of occupants, such as 20.

Gary Smith favored including a distance greater than 660 feet from a larger diameter pipeline for individuals with limited mobility, but did not know how realistic it would be to monitor for such individuals.

Response: RSPA has revised the definition to better define the types of facilities that are to be included. We have clarified that the facilities we are focusing on have people that because of impaired mobility or because they are confined, or because of other reasons, such as age, would be difficult to evacuate. The definition makes clear that it is focusing on the occupants not the design of the building.

We have added a requirement that the building with the occupants who are confined, mobility-impaired, or hard to evacuate has to be an identified site. An identified site is a building that can be identified through any of the following means--it has a sign; it is licensed or registered by a federal, state or local agency; it is known to public safety officials; or it appears on a list or map that is available through a federal, state or local agency, or through a publicly available or commercially available database. This revision should alleviate the concern that operators will be required to identity a family home that has elderly or disabled persons, or day-care age children.

We have kept schools in the list of examples. We agree that many schools will likely fall within the definition for a class 3 or 4 location, and that many may not contain persons who are mobility-impaired. However, schools are facilities occupied by groups of people, most likely children, who may, because of their age, number or fear, be difficult to organize and evacuate during an emergency.

We have not required that these be public facilities. Many day care facilities and assisted-living and retirement facilities and communities are private. To limit the definition to public facilities would eliminate a great number of facilities housing children and the elderly. We have not specified a minimum number of occupants that need to be in these facilities because the populations in these facilities are in constant flux. Although a facility can be identified because it has a sign or is on a list maintained by a governmental agency, it is unlikely there would be information on how many persons occupy the facility.

The information many operators currently maintain on people and buildings near their pipelines should help operators to identify these facilities. This information may have to be supplemented with patrols that specifically look for these types of facilities along the right-of-way. This information will need to be periodically updated to ensure that newer facilities are not overlooked. To supplement this information, government websites provide listings of nursing homes, assisted-living facilities and communities that house elderly. For example, the Federal Government's Firstgov (www.firstgov.gov) website provides information on nursing home and elder care facilities in all
areas of the country, as well as providing information on state websites, and state and local agencies that can be contacted for information to help locate facilities. The website also provides a hyperlink to the National Center for Education Statistics, which lists all private and public schools in any geographic area. In addition, telephone directories offer a listing source for many of the types of facilities an operator will need to identify. Addresses obtained through phone listings can be located using commercially available Web sites such as mapblast (www.mapblast.com) or mapquest (www.mapquest.com).

Areas Where People Congregate--Proposed Sec. 192.761(e)

The proposed definition of high consequence area included an area where a pipeline was within 660 feet or 1000 feet, depending on the diameter and operating pressure of the pipeline, of a place where 20 or more persons gather at least 50 days in any 12-month period. We listed

examples of beaches, camping grounds, recreational facilities and museums. The 20-person minimum used in the proposed definition was based on the number used in the current definition of a class 3 location, and it was a number we believed typical of the number of people that frequent a recreational area. We stated that although gas transmission operators are not currently required to maintain data on areas where people congregate near their pipelines, they are required to patrol their pipeline rights-of-way, and should have knowledge about these areas. We further stated that this information should also be available from local public safety officials.

AGA and APGA thought this part of the definition should be limited to well-defined outside areas. The associations were against including buildings, such as museums, because they are likely covered by other parts of the definition, and against including seldom-used or unmarked buildings, which would require daily patrols to identify. AGA and APGA further suggested that the frequency of usage be 20 or more persons at least 5 days a weeks for ten weeks, because that is consistent with current regulations requiring operators to survey areas within 330 feet of the pipeline for well-defined areas.

Baltimore Gas & Electric maintained it was not practical or attainable to analyze every place where people may congregate on an intermittent basis.

Chevron Texaco was opposed to including places where people might congregate, and preferred focusing the definition on cities, towns, buildings and roads. Chevron thought that using Carlsbad as an example was too broad and could end up including all areas unless on company-owned property.

Citizens for Safe Pipelines urged that public recreation areas be included. The group thought that the proposed standard was too high and would be difficult to measure, and suggested that the standard should simply be evidence of public use, including evidence of vehicle traffic or camping sites, particularly near watercourses. The citizens' group explained that in the west, watercourses are places where people congregate on public land for recreation. The group recommended that operators use regular aerial patrol and consult with public land management and local government officials to identify these areas. The group also recommended including religious buildings, because significant numbers of people regularly congregate in these buildings.

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Consumers Energy commented that the example of a museum did not fit because the proposed definition was aimed at outdoor facilities. The company maintained that the language was too broad and should be limited to well-defined areas, or data would be difficult to develop and maintain. Consumers Energy further maintained that the proposed occupation period was too restrictive, and too hard to identify, and suggested using a weekly basis for the occupation period or eliminating it.

Cook Inlet Keeper was not convinced that the proposed definition would cover the location of the Carlsbad pipeline accident. The organization recommended that to ensure that Carlsbad and similar areas are covered, we lower the proposed 50-day threshold, and instead, use as the trigger whether the operator has any knowledge of periodic use for recreational or other purposes.

CMS Energy maintained that the proposed definition would require operators to monitor pipelines 24-hours, 7 days a week, 365 days a year. The company objected that the proposed language could be interpreted to include areas, such as large parks or golf courses where people might not be close to the pipeline. CMS Energy objected to the example of a museum because this expands the definition to include buildings, and buildings such as rural churches might be covered. The company recommended limiting the area to a small, well-defined area within 220 yards (or 333 yards for larger pipelines).

Duke Energy acknowledged the difficulty in defining areas where people gather. The company suggested using 50 days when defining the frequency of use, a rate that would cover one day per week or a full weekend during the summer months. Duke maintained that the word area by itself was too illusive, and should be modified by the phrase ``small, well-defined outside area.'' Duke explained that without this modification, operators would have to include beaches, parks or other large areas. Duke suggested removing museums as an example because current regulations address land use associated with structures such as office buildings, restaurants and museums, but do not address outdoor areas where people gather for weekend-type use. Duke argued that use of the word outside is critical to capture the recreational land user.

Enbridge recommended that we revise the definition to focus on areas of significantly higher consequence. Enbridge suggested focusing on areas of significant, specific, well-defined outdoor congregation, otherwise, the proposed criteria would incorporate rural places of worship or other facilities used only for an hour or two per week. Enbridge further recommended that the definition specify areas that are clearly and publicly identified, because operators can only be expected to identify areas that have visible signs, or are on official local maps or in public information sources. The operator suggested that we base the definition on data that is public, accessible and verifiable.

Enron was against including buildings such as museums because these have multiple exits and would be protected from an accident. Enron

recommended that the definition focus on small, well-defined outdoor areas, because operators will not be able to identify areas used on occasional weekends or evenings unless they are defined.

The Gas Piping Technology Committee noted that the proposed definition targets weekend activity, which will require operators to conduct weekend patrols at some frequency. The committee suggested RSPA clarify if its intent is to include organized congregation in camping grounds and other areas or to include any place where people congregate. The committee suggested revising the definition to include known areas, at established weekend or seasonal recreational facilities, such as campgrounds, beaches, or parks within a well-defined area.

INGAA expressed concerns with the proposed definition. INGAA argued that local officials could only be expected to identify well-defined and frequently-used areas, and that it was unreasonable to expect operators to identify areas, similar to the Carlsbad site, that are undefined and infrequently used. The industry association objected to including museums in the examples of areas where people congregate, because operators would have to include buildings or structures, particularly, seldom-used buildings, such as rural churches or bingo halls. INGAA commented that having to include these seldom-used structures would require operators to increase the frequency of monitoring, and to monitor on weekends and evenings. INGAA submitted substitute language that it maintained is more consistent with existing regulations, and easier for operators to comply with. This language defined the areas as small, well-defined outside areas within 660 feet of a pipeline, and occupied by 20 or more people on at least 5 days a week for ten weeks in any 12-month period. The association argued this language would preclude operators from having to include large facilities of low usage, such as golf courses or national parks. INGAA explained that requiring an area to be well-defined would allow better utilization of land use data operators have collected, and that a usage rate of 5 days a week would not require surveillance during evening and weekend hours and is more consistent with existing regulations.

Kinder Morgan suggested that areas where people congregate only be included if they are within the pipeline's defined hazard area calculated from the C-FER model.

National Fuel commented that the proposed area would be too difficult to define, and should be revised to refer to small, well-defined outside areas.

NiSource EDG disagreed with our statement in the NPRM that the patrolling frequency required in the class location regulations is sufficient for an operator to have knowledge of where people congregate near its pipeline. The company thought only daily patrolling would uncover the proposed level of use. NiSource EDG was not aware of any public safety agency that collects, maintains and distributes recreational land use information on a statewide basis. NiSource EDG further commented that the proposed definition was subjective and imprecise, and should be revised to enable operators to identify with a level of certainty and precision the kinds of facilities that make an area high consequence.

New York Gas Group commented that based on its members' experience, it is unlikely that the proposed areas could be identified under current patrolling requirements. The trade association maintained that securing this information would require an excessive resource expenditure for expanded patrolling. New York Gas Group further maintained that such information is not available from local officials or available in standardized format.

New York State Department of Public Service commented that it is unclear whether we intended for areas where people congregate to include facilities such as transportation terminals, manufacturing facilities or business locations, and recommended clarifying the language to include these facilities. The Department of Public Service questioned the basis for the 20 or more persons congregating at least 50 days in a 12-month period, and explained that a stadium or arena may be used less than 50 days per year but, nonetheless, attract large crowds to individual events.

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North Shore Gas suggested that the areas where people congregate be known and well-defined. The company also suggested the usage rate should be 5 days a week for 10 weeks in a 12-month period instead of the proposed 50 days in 12 months, because it would be easier for operators to monitor. North Shore Gas thought that the example of a museum is out of place if outside areas are being targeted.

Pacific Gas recommended that RSPA provide the pipeline industry with references to help identify public gathering areas or provide additional guidance for identifying these locations. The company further recommended that we revise the definition to known locations that can be identified by patrols during the business week.

PECO Energy suggested adding the words known or established because small operators might not have knowledge of these facilities. The company argued that operators could be forced to instigate weekend surveillance to identify the proposed areas.

Peoples Gas recommended that areas an operator has to identify be known and well-defined. Peoples Gas suggested changing the proposed 50 days of occupancy to 5 days per week for 10 weeks, otherwise, increased monitoring is needed. The company further

suggested that we delete museum from the examples to focus on outdoor areas.

Questar recommended focusing the definition on well-defined outside areas where large groups of people congregate near gas transmission pipelines, and requiring that the areas be known and controlled by public officials. Questar was opposed to including buildings because they are picked up in other sections of the definition, and seldom-used buildings would be difficult to identify.

Response: We have revised the part of the definition addressing areas where people congregate. The intent in including these areas was to pick up areas that are used for recreational purposes. Such areas typically are used on weekends, and after business hours. Although an operator may only patrol during business hours during the week, it may have to expand its efforts to identify areas that people frequent at other hours. A pipeline does not shut down during evening and weekend hours, when people are using these areas. Even if an operator does not expand its patrolling, it should be able to identify these areas through its procedures for continuing surveillance or through its communications with local public safety officials.

We have revised the definition to require that there be evidence of use at an identified site. As with the buildings with mobility-impaired or confined persons, an identified site is a building or outside area that has a visible sign, is registered or licensed by a Federal, State or local agency, is known by public officials, or is on a list or map available through a Federal, State or local agency or that can be obtained through a publicly available or commercially available database. At the site there needs to be evidence that the site is used by 20 or more persons on at least 50 days in any 12-month period. These revisions should alleviate concerns operators expressed about the proposed definition being too vague and the areas too difficult to identify. The definition now provides criteria for identifying locations where people congregate.

We have revised the examples. In the list of examples, we have included stadiums. Although stadiums holding large crowds may be located in Class 3 or 4 locations, we want to ensure such facilities are not ignored if they are located in a less densely populated area. We have added buildings used for religious purposes because groups of people are likely to gather in these buildings on weekends and in the evening. We have also added crossings of water bodies to the examples. We agree with the comment that the area near a pipeline crossing of a waterway may be used as a camping or recreational area.

We have not added modifiers, such as small and well-known. An adjective such as the word small is open to interpretation. One person's idea of small could be 10 feet, whereas another operator might consider 500 feet as small. Similarly, there would likely be disagreement about what makes an area a known area. Would it be enough that local residents know and frequent the area or would it have to be on a list maintained by a local agency for it to be known? What if it is an area known by local officials but the operator only conducts patrols during the week and has no knowledge that it is being used on weekends? By requiring that there be evidence of use at an identified site we are focusing on any area that can be identified as an area where there is regular activity by people around the pipeline.

Although concern was expressed that golf courses and national parks may have to be included, the area that needs to be looked at is only 300, 660 or 1000 feet from a pipeline. Even if the area falls within a large area as a golf course or park, the operator only has to determine if the specified area around the pipeline shows evidence of regular use by people, or the operator can assume that people regularly frequent the area near the pipeline.

We have not limited the definition to outside areas but have included other structures that may be used for recreational or other purposes during weeknight or weekend hours. As explained above we included in the examples stadiums and religious buildings. We have taken out the example of a museum, because we agree that this type of building is most likely covered under the class location definitions.

We have not changed the usage rate from what was proposed. We believe this is a valid rate to pick up areas that are used as recreational areas because the rate will support identification of areas that are used only during week days in a typical ten (10) week summer, and areas that are used only on weekends throughout the entire year. The number of people is appropriate for a recreational activity such as baseball, football or soccer, and for a moderately used facility such as a campground.

We continue to believe that evidence of recreational use can be determined through required patrols of the pipeline right-of-way, perhaps, supplemented with patrol on a weekend or after business hours during the week. Operators are already required to have procedures for continuing surveillance and to have emergency procedures that provide for maintaining communication with public officials. Thus, it should not be burdensome for operators to consult with these officials to determine if the officials have knowledge about these areas. In addition, most recreational areas will be designated areas such as parks or campgrounds for which records are retained by governmental units at the local, county or state level.

660 and 1000-Foot Corridors

Where a pipeline is near a building with mobility-impaired or confined persons, or near an area where people congregate, we proposed that the protected area from the pipeline should be 660 feet or 1000 feet, depending on the diameter and operating pressure of the pipeline. In the NPRM we explained that we based the proposed 660-foot and 1000-foot corridors on a model developed by C-FER, a Canadian

research and consulting organization. (More information on this model is in Docket 7666). The C-FER analysis was based on a simplified model of a gas pipeline rupture. The model included a simplified mathematical treatment of several phenomena important to characterizing the extent of damage following a pipeline rupture, as for

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example, critical heat flux, the time of ignition of the escaping gas, the height of the burning jet, and the pipe decompression rate. The model also included estimates of several important parameters associated with the phenomena. The model validated the distance of 660 feet as the impact area for pipelines smaller than 30 inches in diameter and operating at 1000 psig or less. The model also showed that a pipeline with a diameter greater than 30 inches and operated at a pressure greater than 1000 psig has the potential to impact an area greater than 660 feet from the pipeline. Several commenters supported our expanding the area of protection from 660 feet to 1000 feet to accommodate large pipelines operating at high pressure, but recommended decreasing the area for small-diameter pipelines operating at low pressure. These operators maintained that a decreased area would reduce the costs of surveillance and record keeping.

APA and APGA recommended that instead of the proposed 660 and 1000 foot corridors, a high consequence area be defined by the C-FER equation. AGA and APGA explained that this equation would calculate the pipeline affected zone i.e., the zone affected by the heat emitted from the burning gas.

CMS Energy urged RSPA to include along with the proposed 660-foot and 1000-foot corridors, a smaller corridor for small diameter, lower pressure lines. CMS explained that this would more accurately use the information in the C-FER report and allow operators to use technical justification to concentrate on areas of greater consequence.

Consumers Energy observed that using the C-FER model for smaller pipelines operating below 1000 psig would reduce the area of influence but that the model is more useful because it uses actual pipeline attribute data to determine the heat affected zone.

El Paso encouraged that, instead of the 660 and 1000-foot areas, we incorporate into the definition the concept of a pipeline-affected zone, as used in the C-FER study. Enbridge made the same recommendation.

GPTC commented that the C-FER Report forms a sound technical basis for determining a zone of thermal influence for a potential gas pipeline rupture, but that the simplified model we used does not consider small diameter low pressure pipelines.

INGAA recommended that we include the pipeline-affected zone equation used in the C-FER study so that operators could better use the data they have been collecting since 1970. INGAA argued that use of programmed distances, such as the proposed 660 feet and 1000 feet, does not utilize the findings of the C-FER study.

The Iowa Utilities Board commented that two pipelines in the State and at least one that is proposed for construction in Iowa would have impact zone widths of greater than 1000 feet, using the C-FER formula. The Board also pointed out that the C-FER formula will predict smaller impact zones than those proposed for some pipelines having diameter greater than 30 inches with operating pressure over 1000 psig. The Iowa Board suggested we consider specifying operators use the C-FER formula for pipelines with diameter greater than 30 inches and operating pressure over 1000 psig rather than the proposed 1000-feet limit.

New York Department of Public Service maintained that the heat flux value of 5000 btu/hr-ft\2\ used in the C-FER formula is too high. A lower critical heat flux value should be used, which would increase the width of the predicted impact zone.

Pacific Gas and Electric recommended using the C-FER equation in class 3 and 4 areas to determine which portions of these areas require an integrity management plan, and focusing efforts on those portions where the pipeline's impact zone encompasses a structure such as a school or hospital containing a specified number of people. The company further suggested that the definition use the C-FER equation to determine the extent of the pipeline that requires integrity verification.

Questar recommended that operators be allowed to use the C-FER equation to determine the pipeline affected zone rather than the proposed 660 or 1000 feet.

The State of New York, Office of the Attorney General supported the 660 and 1000-foot areas, but cautioned that the C-FER model used to define these dimensions does not consider low-angle, horizontal jet fires. The New York State Attorney General's office explained that this type of rupture would cause more of the heat-radiating flame surface to be concentered near the ground surface in the direction of the initial horizontal jet, potentially creating a heat flux for more than 1000 feet.

Williston Basin agreed that zones of damage can extend out from the current class location defined distance of 660 feet during a release, but disagreed with applying the C-FER model only when the hazard radius exceeds 660 feet. The company thought the model should be applied over the full spectrum of pipeline operating conditions because more can be accomplished by focusing resources on the hazard radius area.

Response: RSPA has revised the definition to include a third zone for small diameter, low pressure pipelines. For a pipeline with a diameter of 12 inches or less and an operating pressure of 1200 psig or less, the area of protection will be 300 feet. Although the C-FER model

predicted a potential impact area of less than 300 feet for a pipeline of the above-specified size, we will not include an area smaller than 300 feet. In addition, RSPA is further exploring ways to address low stress pipelines in the proposed gas pipeline integrity management rule. We are also considering the comment about use of the C-FER model in calculating the zone of impact in developing that proposed rule.
While arguments, such as that by the New York State Attorney General's Office, may be theoretically possible, the actual incident data developed at gas pipeline rupture sites over a twenty-year period were used to validate the predictions of the C-FER model. Thus, a spectrum
of different events produced burn radii that were reasonably accurately predicted by the simple formulation contained in the C-FER model. The
forthcoming proposed integrity management rule will address situations where the pipe diameter and operating pressure are sufficiently large
that the predicted impact zone using the C-FER model could exceed 1000 feet.

Other Area of Potential High Consequence Not Proposed

Environmental Areas

In the NPRM we explained because of the way gas products behave, a rupture would affect a very limited area, and would not pollute drinking water or ecological resources. Because any environmental consequences following a rupture would be limited, we did not include environmentally sensitive areas in the proposed definition. Citizens for Safe Pipelines recommended adding watercourses to better protect these areas from spills of natural gas condensates.

Cook Inlet Keeper favored adding environmentally sensitive areas because natural gas condensates form in transmission pipelines and can
pose environmental hazards. Cook Inlet Keeper also listed eight recent releases of natural gas pipeline condensates (spills of up to 10 gallons of condensate) in the Cook Inlet region in Alaska.

The State of New York, Office of the Attorney General recommended including pipelines within the Great Lakes because of environmental
sensitivity.

The Washington State Department of Ecology recommended including

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unusually sensitive areas and navigable waterways as high consequence areas, because these may be affected by a fire ignited by a gas pipeline rupture. The Department also recommended that we require operators to consult with state and local government officials to identify environmentally sensitive areas.

The Washington Utilities and Transportation Commission urged RSPA to include environmentally sensitive areas in the definition. The Commission explained that a habitat for a threatened or endangered species in the heat affected zone could be destroyed by a pipeline rupture and ignition. The Commission also urged that operators be required to consult with state and local government agencies to ensure that environmentally sensitive high consequence areas have been correctly identified.

Response: As we explained above in the section discussing areas where people congregate, we have added recreational areas near water bodies to the definition. However, we have not revised the definition to include environmental areas. RSPA believes that the limited physical
impact of a gas pipeline rupture and the short duration of the impact justify excluding these areas. A natural gas release is limited to the area immediately adjacent to the pipeline, so that any resulting fire would do limited damage to a sensitive area or to a species in the area. We recognize that gas condensates that form in gas transmission pipelines can pose an environmental hazard should the pipeline rupture.
However, because we believe that these discharges tend to be small and do limited damage, we are not at this stage including these areas in the definition.

Other Areas

Cook Inlet Keeper recommended adding to the definition high-traffic areas and passenger and flammable cargo rail areas. The organization
also recommend including religious buildings because significant numbers of individuals are confined in these buildings on a regular basis.

The New York State Department of Public Service thought the definition should be expanded to consider important infrastructure including major electric transmission corridors and substations, other pipeline facilities, bridges, major roads and railways. The Department recommended we also consider historic landmarks near transmission pipelines and services that would be disrupted and would have a major impact on people and businesses.

SEFBO argued that pipeline bridges represent potential high consequence areas in themselves, and should be separately included as high consequence areas. SEFBO agreed that pipeline crossings of roads, highways and railroads should not be included because disruption from an explosion of a gas pipeline at such a crossing should be fairly localized and relatively short. According to SEFBO, an explosion of a natural gas pipeline on a bridge poses a unique risk of substantial economic disruption, and on a heavily traveled bridge may cause injury or death to a substantial number of persons.

Washington State Department of Ecology pointed out that recent experience has shown that a rupture of a gas pipeline could impact a near-by liquid pipeline (within 1000 feet), causing an explosion or oil spill.

Response: The primary purpose of this definition is to define areas where a pipeline rupture would lead to the greatest consequences to the
public. Most areas are adequately protected by current pipeline safety regulations. In most cases, a rupture of a gas pipeline will result in limited physical damage from a pipeline rupture, and be of short duration (one or more hours). We are focusing the definition on those areas where additional protection may be necessary because the consequences to people are potentially the greatest. Except for those areas previously discussed, we have not revised the definition to include the suggested areas.

Our review of accident data concluded that the maximum spill from a gas rupture resulting in a spill from a liquid pipeline has been too small to necessitate additional protection. We believe the impact of pipelines on infrastructure is adequately treated by existing regulations, although we will consider the comments about pipeline bridges in developing the integrity management program requirements.
For example, pipelines supported by bridges (vehicular, railroad, pedestrian, pipeline), or that cross public roads, highways or railroads have special design factors. (Sec. 192.111). Special welding requirements apply to pipeline crossings of rivers, railroads, highways, tunnels and bridges (Sec. 192.243). More frequent patrols are required at highway and railroad crossings (Sec. 192.705).

As previously discussed, we added religious buildings to the list of examples of areas where people congregate. Transportation terminals, manufacturing facilities or business locations would usually fall within a class 3 or 4 location, or be covered under the high consequence area definition if they normally have 20 or more people on at least 50 days a year.

Costs Associated With the Definition

In the NPRM, we explained that the proposed definition had no cost impact on the pipeline industry because the definition did not by itself require an operator to take action. Costs would be incurred once we issued integrity management program requirements that required an
operator to take action on transmission pipelines located in these areas.

AGA and APGA thought we should consider in this rulemaking the initial costs associated with determining the high consequence areas, including identifying the areas, documenting them and verifying them periodically.

The Gas Piping Technology Committee also pointed out that we had not considered the initial costs, the frequency of verification and the potential recurring costs associated with determining the high consequence areas. The Committee recommended we consider these costs in this rulemaking so as not to overlook them in the integrity management program rulemaking.

Kinder Morgan commented that operators will incur additional costs to determine the applicability of the definition, and will have to gather additional information to identify the facilities with mobility-impaired persons and areas where people congregate. The company noted
that operators will also have to conduct additional field surveys to identify the facilities and areas within 1000 feet of a pipeline.

New York Gas Group commented that the definition would require additional company resources and significant paperwork to identify facilities with mobility-impaired persons and areas where people congregate in class 1 and 2 areas.

NiSource EDG observed that this definition will drive future costs because it will dictate the integrity management actions an operator will have to take with respect to those pipelines located in the high consequence areas.

Questar commented that we need to discuss the incremental costs associated with determining the high consequence areas, such as the incremental costs for identifying, documenting and re-verifying the high consequence areas, and expanding the survey corridor.

Williston Basin commented that assessment costs are a significant expense and that the definition will directly affect assessment costs. The company argued that because the high

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consequence area definition and integrity management rulemaking are directly related, the definition cannot be complete without evaluating the definition under the requirements of the integrity management rule.

Response: We have not changed our conclusion that there are no costs associated with the definition because the definition by itself does not require an operator to take any action. We recognize that once we issue regulations requiring action based on this definition, there will be costs. Thus, when RSPA issues its notice of proposed rulemaking for gas integrity management, RSPA will estimate the cost to gas pipeline operators to determine which segments in its system satisfy the definition of high consequence areas, and other costs associated with identifying and periodically re-verifying the areas.

The Final Rule

In the final rule RSPA has defined high consequence areas to include--

Class 3 areas. A Class 3 area is defined in the pipeline safety regulations as a class location unit with 46 or more buildings intended for human occupancy. A class location unit is an area that extends 220 yards on either side of the centerline of any continuous one-mile length of pipeline. A class 3 area is also an area where the pipeline lies within 100 yards of either a building or a small, well-defined outside area, such as a playground, recreation area, outdoor theater, or other place of public assembly, which is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period. Neither the days nor the weeks need be consecutive.

Class 4 areas. A Class 4 area is any class location unit where buildings with four or more stories are prevalent.

We have included class 3 and 4 location areas, as those areas are defined in Sec. 192.5, to give additional protection to populated areas from a gas release. These areas will encompass about 85% of populated areas. These are the areas where most gas transmission pipeline operators maintain data on population and buildings near their pipelines. However, because the class location definitions may not cover all areas where a pipeline may pose a risk to the public, we have also included as high consequence areas:

Areas where the pipeline is within 300, 660 or 1000 feet of a building occupied by persons who are confined, or are of impaired mobility, or would be difficult to evacuate, and Areas where the pipeline is within 300, 660 or 1000 feet of a building or outside area where 20 or more persons congregate at least 50 days in any 12-month period. (The days need not be consecutive.)

The definition picks up facilities with people who may not be able to evacuate an area quickly and most recreational areas or other areas where the public may not live, but may gather regularly for recreational or other purposes. Our analysis of data on the area affected by a pipeline accident demonstrated the need for special consideration of buildings located near a pipeline that house people with limited mobility and of areas where people congregate. These last two elements explicitly include distances between the pipeline and the facility or recreational area where greater protection will be provided. Defining these distances is necessary for two reasons. First, there is a need to limit the magnitude of the search to identify facilities and recreational areas that can potentially be affected by a pipeline rupture. Second, recently completed research has defined the extent of the area potentially affected by a pipeline rupture and subsequent ignition and fire. The results from this research has been used to define the distances we have included in the definition.

Our analysis of research data on the area affected by a pipeline accident demonstrated that, for most pipelines, the area affected by the rupture and fire extended no greater than 660 feet from the pipeline. The recently completed research demonstrated that the extent of the area potentially affected by a rupture increases in direct proportion to the square root of the pressure at which the pipeline is operated, and increases in direct proportion to the pipe diameter. Therefore, the rupture of smaller pipelines can impact facilities and recreational areas at distances less than 660 feet, and the rupture of larger pipelines can impact facilities and recreational areas at distances greater than 660 feet. Our analysis determined that, for a pipeline with a diameter of 12 inches or less and a maximum allowable operating pressure of 1200 psig or less, the distance from the pipeline of potential impact is 300 feet. For pipelines with a diameter greater than 30 inches and a maximum allowable operating pressure greater than 1000 psig, the distance from the pipeline of potential impact is 1000
feet.

The research that we used as the basis for the 300, 660 and 1000-feet distances is in the docket and is referred to as the C-FER model. We compared the predictions from the C-FER model against RSPA accident data and concluded that the impact distances predicted by the model are consistent with the burn radii observed in accidents that have occurred during the past twenty years. For example, a rupture of a 30-inch diameter pipeline operating at a maximum pressure of 1000 psig would affect an area no greater than 660 feet from the pipeline. Our research also showed that a rupture or release from a smaller-sized pipeline (a pipeline 12 inches or less in diameter and operating at a pressure of 1200 psig or less) would affect an area no larger than 300 feet from the pipeline. Therefore, for these smaller pipelines, we have defined a smaller area in which operators must identify buildings housing mobility-impaired or confined people and areas where people congregate.
Similarly, for larger pipelines (a pipeline with a diameter greater than 30 inches and operating at a pressure greater than 1000 psig), we have defined a larger area of 1000 feet from the pipeline.

Because operators were concerned that they would be required to identify home-based day care and private homes with elderly occupants,
the definition provides that the facility has to be an identified site. An identified site would be a building with confined or mobility-impaired persons that can be identified by any of several means: it has a sign; it is licensed or registered by a Federal, State or local authority; or it is on a list or map that is available from a Federal, State or local authority, or through a publicly available or

commercially available database. Similarly, because of concerns raised about identifying recreational areas where people congregate, we have
required that the building or outside area be an identified site (described above) that has evidence of use by 20 or more persons on at least 50 days a year.

The areas we have defined as high consequence areas go beyond current pipeline safety regulations in the following ways:

1. A current Class 3 location includes buildings or areas where people congregate located within 300 feet of the pipeline. The definition extends these areas out to 660 feet for pipelines of diameter greater than 12 inches and out to 1000 feet for larger pipelines (those greater than 30 inches in diameter and operating at pressures greater than 1000 psig).

2. Current Class location regulations include no explicit provision for facilities housing people with limited mobility. The definition includes these facilities.

3. The definition places more emphasis on areas where people congregate near a pipeline, such as

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camping grounds and recreational areas near bodies of water. These areas may not be identified under the current class 3 location definition.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

DOT considers this action to be a non-significant regulatory action under section 3(f) of Executive Order 12866 958 FR 57135;October 4, 1993). Therefore, the Office of Management and Budget (OMB) has not reviewed this rulemaking document. This final rule is also not significant under DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979).

Several commenters to the proposed rule (67 FR 1108-1115, January 9, 2002) disagreed with RSPA's determination that the proposed rule
would incur no costs because it was only a definition. These comments were discussed above. As we previously explained, this definition does
not require operators to take any action. Until there are requirements for the pipeline segments that are located in the high consequence areas we have defined, there are no cost impacts on the pipeline industry or the public. The costs will be incurred when we issue integrity management program regulations that require gas transmission operators to take actions on pipelines located in the high consequence
areas. When we issue proposed regulations on integrity management for gas operators, we will then consider the costs involved in identifying
and periodically re-verifying the high consequence areas.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) RSPA must consider whether a rulemaking would have a significant impact on a substantial number of small entities. This final rulemaking will not impose additional requirements on pipeline operators, including small
entities that operate regulated pipelines. As this action only involves a definition, there are no cost implications, and thus we have determined it has no immediate impact on small entities. Costs are likely to result once we issue requirements for actions that use this definition. When RSPA proposes integrity management requirements for gas transmission pipelines in high consequence areas, RSPA will then
examine the costs and benefits of the proposed requirements, including actions based on the high consequence area definition. Based on this information demonstrating that this rulemaking will not have an economic impact, I certify that this final rule will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule contains no information collection subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507
(d)). Therefore, RSPA concludes the final rule contains no paperwork burden and is not subject to OMB review under the paperwork Reduction Act of 1995.

This final rule defines high consequence areas, but does not require an operator to take any action. The definition will be used in the forthcoming rulemaking on ``Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Gas Transmission Operators)".
RSPA will prepare a paperwork burden analysis for that proposed rule.
Executive Order 13084

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13084 (``Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not significantly or uniquely affect the communities of the Indian
tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

Executive Order 13132

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 (``Federalism"). This final rule does not have any requirement that:
(1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government;
(2) imposes substantial direct compliance costs on States and local governments; or
(3) preempts state law.
Therefore, the consultation and funding requirements of Executive Order 13132 (64 FR 43255; August 10, 1999) do not apply. Nevertheless, in public meetings on November 18-19, 1999, and February 12-14, 2001, RSPA invited the National Association of Pipeline Safety Representatives (NAPSR), an organization that includes State pipeline safety regulators, to participate in a general discussion on pipeline integrity. RSPA also had conference calls with NAPSR to receive their input before proposing a definition of high consequence areas. Several state agencies responded to the NPRM and their comments were considered in developing the final definition.

Unfunded Mandates

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

National Environmental Policy Act

We analyzed the final rule for purposes of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and determined the action would not significantly affect the quality of the human environment. The Environmental Assessment is available for review in the docket.
The Environmental Assessment (EA) considered the impacts of the definition, in conjunction with future requirements of an integrity management rule. The EA found that the definition by itself, did not by itself have any impact on the environment. When integrity management
program requirements are issued which will incorporate the definition, there should be positive environmental benefits for the areas receiving
additional protection. However, because the environmental consequences from a gas release are limited, any impact is expected to be minimal.
Therefore, the definition of high consequence areas for gas pipeline integrity management will not have a significant environmental impact.

List of Subjects in 49 CFR Part 192

Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, RSPA is amending part 192 of title 49 of the Code of Federal Regulations as follows:

PART 192--[AMENDED]

1. The authority citation for part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, and 60118; and 49 CFR 1.53.

2. Section 192.761 is added under a new undesignated centerheading of ``High Consequence Areas'' in subpart M to read as follows:

Subpart M--Maintenance

* * * * *

[[Page 50835]]

HIGH CONSEQUENCE AREAS

Sec. 192.761 Definitions.

The following definitions apply to this section and Sec. 192.763:
A high consequence area means any of the following areas:
(a) An area defined as a Class 3 location under Sec. 192.5;
(b) An area defined as a Class 4 location under Sec. 192.5;
(c) For a pipeline not more than 12 inches in nominal diameter and operating at a maximum allowable operating pressure of not more than
1200 p.s.i.g., an area which extends 300 feet from the centerline of the pipeline to the identified site;
(d) For a pipeline greater than 30 inches in nominal diameter and operating at a maximum allowable operating pressure greater than 1000 p.s.i.g., an area which extends 1000 feet from the centerline of the pipeline to the identified site; and
(e) For a pipeline not described in paragraph (c) or (d) of this section, an area which extends 660 feet from the centerline of the pipeline to the identified site.
(f) An identified site. An identified site is a building or outside area that--
(1) Is visibly marked;
(2) Is licensed or registered by a Federal, State, or local agency;
(3) Is known by public officials; or
(4) Is on a list or map maintained by or available from a Federal, State, or local agency or a publicly or commercially available database; and
(5) Is occupied by persons who are confined, are of impaired mobility, or would be difficult to evacuate. Examples include, but are not limited to hospitals, prisons, schools, day-care facilities, retirement facilities, and assisted-living facilities; or
(6) There is evidence of use of the site by at least 20 or more persons on at least 50 days in any 12-month period. (The days need not be consecutive.) Examples include, but are not limited to, beaches, playgrounds, recreational facilities, camping grounds, outdoor theaters, stadiums, religious facilities, and recreational areas near bodies of water.

Issued in Washington, DC, on August 1, 2002.
Ellen G. Engleman,
Administrator.
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3. AUDIT SECTION

A. Maintains headquarters and three district offices as follows:

Headquarters - William B. Travis Building
1701 North Congress, P. O. Box 12967, Austin, Texas 78701 Telephone (512) 463-7022
Ed Abrahamson, Assistant Director

Dallas District- 1546 Rowlett Rd., Suite 107, Garland, Texas 75043 Telephone (972) 240-5757;
Fax (972)303-1897

Stephen Cooper, Auditor
Josh Settle, Auditor

Austin District- P. O. Box 12967, Austin, Texas 78711-2967 Telephone (512) 463-7022

Houston District- 1706 Seamist Drive. Suite 501, Houston, Texas 77008-3135 Telephone (713) 869-8425;
Fax (713)869-3219

Mark Brock, Supervising Auditor
Dale Francis, Auditor
Margie Stoney, Auditor
Konata Uzoma, Auditor
Lekisha Churchwell, Auditor
Larry Alcorn, Auditor

B. **Gas Utility Tax, Annual Reports and Audit Reports**

Questions relating to gas utility tax, annual reports and audit reports, call Shannon L. Miller at (512) 463-7022.

C. **Available Information**

Copies of company annual reports (1994 to present), as well as information relating to any of the above, A through C, are available for review at the William B. Travis Building, Gas Services Division, 9th Floor, 1701 North Congress. All requests for copies must be made in writing and should be addressed to the Audit Section. Copies will be provided for a fee, depending on the volume of copy work desired, allow a minimum of five days for completion of requests. Inquiries regarding copies should be directed to the Audit Section at (512) 463-7022, or Fax your request to (512) 475-3180**.**

4. REGULATORY ANALYSIS AND POLICY

A. Maintains the following office to assist you:

Headquarters - William B. Travis Building
1701 North Congress, P.O. Box 12967, Austin, Texas 78711 Telephone (512) 463-7164
Karl Nalepa, Assistant Director

B. **Gas Utilities Information Bulletin**

Published on the Commission's web site at: http://www.rrc.state.tx.us/divisions/gs/rap/rapbls.html.

C. **Proposals For Decision**

Published on the Commission's web site at: http://www.rrc.state.tx.us/divisions/gs/rap/pfds.html.

D. **Tariff Filings**
Questions pertaining to the filing of tariffs and/or quality of service rules should be directed to Kathy Arroyo, or Sandra Soto at (512) 463-7164.

E. **Curtailments**
Curtailment questions should be referred to Sandra Soto at (512) 463-7164. Curtailment reports made Monday through Friday, 8:00 a.m. to 5:00 p.m., should be made to (512) 463-7164. Curtailment reports made during hours other than those specified above and holidays, should be made to (512) 463-6788, (512) 896-3863 (digital pager), (512) 892-1772 or (512) 280-5949.

F. Compliance Filings
Questions regarding gas utilities docket compliance filing requirements should be referred to Jackie Standard at (512) 463-7164.

G. Complaints and Inquiries
All complaints and inquiries relating to the gas utility industry should be directed to the Regulatory Analysis and Policy section at (512) 463-7164.

H. Rules and Regulations: None at this time.

5. HEARINGS AND LEGAL ANALYSIS

A. Miscellaneous

Anyone wishing to obtain copies of appendices to Orders appearing in Section 5 of this Bulletin should contact the Legal Division at (512) 463-7017.

B. Status of Pending Cases

The status of all pending cases listed in Section 3 of this Bulletin is for informational purposes only and is complete up to the time of printing of this Bulletin. For a more accurate status of pending cases, please call the Legal Division at (512) 463-7017.